

SERVED: March 6, 2007

NTSB Order No. EA-5271

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 2<sup>nd</sup> day of March, 2007

_____	)	
MARION C. BLAKEY,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-17469
v.	)	
	)	
WILLIAM E. DANKO,	)	
	)	
Respondent.	)	
_____	)	

**OPINION AND ORDER**

Respondent, *pro se*, appeals the decisional order of Administrative Law Judge Patrick G. Geraghty.<sup>1</sup> That order, dated March 15, 2006, granted the Administrator's motion for summary judgment on a complaint suspending respondent's private pilot certificate for 120 days because he violated sections 61.56(c), 91.13(a), 91.409(a), and 91.203(a)(1) of the Federal Aviation

<sup>1</sup> A copy of the law judge's decisional order is attached.

Regulations<sup>2</sup> (FARs). We deny the appeal.

---

<sup>2</sup> FAR sections 61.56 (14 C.F.R. Part 61), and 91.13, 91.203, and 91.409 (14 C.F.R. Part 91), provide, in pertinent part, as follows:

**§ 61.56 Flight review.**

\* \* \* \* \*

(c) Except as provided in paragraphs (d), (e), and (g) of this section, no person may act as pilot in command of an aircraft unless, since the beginning of the 24th calendar month before the month in which that pilot acts as pilot in command, that person has –

(1) Accomplished a flight review given in an aircraft for which that pilot is rated by an authorized instructor and

(2) A logbook endorsed from an authorized instructor who gave the review certifying that the person has satisfactorily completed the review.

\* \* \* \* \*

**§ 91.13 Careless or reckless operation.**

(a) *Aircraft operations for the purpose of air navigation.* No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

\* \* \* \* \*

**§ 91.203 Civil aircraft: Certifications required.**

(a) Except as provided in § 91.715, no person may operate a civil aircraft unless it has within it the following:

(1) An appropriate and current airworthiness certificate.

\* \* \* \* \*

**§ 91.409 Inspections.**

(a) Except as provided in paragraph (c) of this section, no person may operate an aircraft unless, within the preceding 12 calendar months, it has had –

The Administrator's order of suspension, filed as the complaint in this proceeding, alleges these facts:

1. You are now, and at all times mentioned herein were, the holder of Private Pilot Certificate No. 185228144.
2. You are the owner and principal operator of a Piper PA-28-180 aircraft, Registration No. N7799N.
3. On or about June 25, 2004, Aviation Safety Inspectors from the Long Beach Flight Standards District Office ("FSDO") conducted an inspection of your aircraft logbooks.
4. The inspection revealed that the last annual inspection of N7799N had been accomplished on June 11, 2002.
5. The next annual inspection was due no later than June 30, 2003. None was accomplished.
6. You operated N7799N on several flights subsequent to June 30, 2003.
7. You operated N7799N on or about March 27, 2004.
8. You operated N7799N when it did not have an appropriate and current airworthiness certificate.
9. On or about July 12, 2004, Aviation Safety Inspectors from the FSDO inspected your pilot logbook.
10. The inspection revealed that your last regulatory flight review had been accomplished on August 22, 1982. The next flight review, due no later than August 31, 1984, was not accomplished.

---

(..continued)

(1) An annual inspection in accordance with part 43 of this chapter and has been approved for return to service by a person authorized by § 43.7 of this chapter.

\* \* \* \* \*

11. You operated N7799N as pilot in command on several flights after the due date for the flight review.

12. Your actions, as described in paragraphs 5 through 11, were careless, so as to endanger the life or property of another.

Respondent's answer admitted Paragraphs 1, 2, 4,<sup>3</sup> 5, 6, 7, 9, and 11 of the Administrator's complaint. Those facts were, therefore, deemed established. Thereafter, while not affirmatively admitting the remaining allegations in his answer, in the course of discovery and in ensuing submissions, respondent made various statements that left no material factual dispute as to the relevant factual allegations in the Administrator's complaint, thereby, in effect, admitting them. For example, regarding paragraph 8 of the complaint, respondent said, "TIME FLIES. AN ANNUAL WAS DUE IN 2003. I WAS TARDY IN GETTING IT DONE (2004). MY MISTAKE." Regarding paragraph 10, he said:

I DID NOT FLY FOR MANY YEARS AFTER 1982. I RE-STARTED IN 1999. SINCE 1999 MUCH OF MY FLYING HAS BEEN DONE WITH A CFI. I COULD HAVE BEEN SIGNED-OFF (BFR) MANY TIMES. NOT HAVING IT DONE OFFICIALLY WAS AN OVERSIGHT ON MY PART. MY BFR IS CURRENT AS OF SEPTEMBER, 2004. ALSO, THE 2005 ANNUAL IS BEING DONE NOW.

Prior to the scheduled hearing, the Administrator moved for summary judgment, arguing there were no material issues of fact

---

<sup>3</sup> The decisional order erroneously states respondent admitted the factual allegations in paragraphs 1, 2 through 7, 9, and 11. This error has no effect on the case.

to be resolved.<sup>4</sup> Attached to the Administrator's motion were respondent's discovery responses. Also attached was an excerpt of FAA Order No. 2150.3A, setting forth the Administrator's guidance that a violation regarding operation without a valid airworthiness or registration certificate should result in a suspension of 30 to 90 days per violation, and that a violation regarding operation of an unairworthy aircraft should result in a suspension of 30 to 180 days per violation.

The law judge granted the Administrator's motion, affirmed the order of suspension and complaint, then cancelled the hearing and terminated the proceeding. Respondent appealed this decisional order. On appeal, he demonstrates no error in the law judge's ruling, nor any unresolved factual dispute. Indeed, our review of the record convinces us that the law judge's decision was sound and appropriate.

On appeal, respondent does not put forth any cognizable argument and, importantly, he does not demonstrate a material factual dispute or any error by the law judge. The Administrator filed an appropriate motion for summary judgment. Respondent did not respond to that motion. It is clear that there is no dispute as to any material fact. Under such circumstances, summary judgment is appropriate. Furthermore,

---

<sup>4</sup>As with the other pleadings in the case to which he did reply, respondent received service of the motion for summary judgment, but he did not reply to it.

the sanction is within the guidelines in FAA Order 2150.3A, Appendix 4, Enforcement Sanction Guidance Table (it is actually on the low end of the spectrum), and respondent makes no showing otherwise.<sup>5</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondent's appeal is denied;
2. The law judge's decisional order is affirmed; and
3. The 120-day suspension of respondent's private pilot certificate shall begin 30 days after the service date indicated on this opinion and order.<sup>6</sup>

ROSENKER, Chairman, SUMWALT, Vice Chairman, and HERSMAN, HIGGINS, and CHEALANDER, Members of the Board, concurred in the above opinion and order.

---

<sup>5</sup> Respondent, in his appeal, focuses in part on the fact that he represents himself. However, when respondent filed his notice of appeal, the Office of Administrative Law Judges informed him it was advisable to have an attorney for the proceeding. That office also provided a pamphlet that stated, "...If an airman can afford it, it is advisable to have legal representation...." We addressed a similar scenario, albeit in a hearing context, in Administrator v. Horton, NTSB Order No. EA-4832 at 6 (2000):

That an attorney may have argued his case more effectively or presented evidence differently is not a sufficient reason to require a rehearing. See Administrator v. Jorden, NTSB Order No. EA-4037 at 8, n.5 (1993), citing Administrator v. Dudek, 4 NTSB 385, 386, n.5 (1982).

Nothing in respondent's brief demonstrates the law judge's decision was erroneous.

<sup>6</sup> For purposes of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. § 61.19(g).